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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

WILLIAM J. LAWS,

Objector and Appellant,

v.

CAROLYN LAWS,

Petitioner and Respondent.

A142744

(Solano County
Super. Ct. No. FPR045231)

In this case involving a trust, trustee William J. Laws appeals from an order requiring him to file an amended accounting. He contends the court erred in finding that certain property should be included in the assets of a probate estate rather than the assets of the trust. We will affirm the order.

I. FACTS AND PROCEDURAL HISTORY

Medora D. Laws (Medora) created the Medora D. Laws Trust on July 16, 1997. The trust left the assets of the trust estate, identified on the Schedule of Trust Assets, to her two sons, George E. Laws, Jr. (George) and William Joseph Laws (William), in equal shares.¹ William was named the successor trustee. The trust assets did not include real property.

¹ Except when the names are contained in a title or quotation, we will refer to Medora D. Laws, George E. Laws, Jr., William Joseph Laws, and Carolyn Laws by their first names for the sake of clarity and brevity, without disrespect.

Medora created a Last Will and Testament on July 18, 1997. The will provided that her entire estate was bequeathed to the Medora D. Laws Trust—specifically, to “William Joseph Laws as Trustee of the Medora D. Laws Trust, to be held, managed and disposed of in accordance with the provisions of said trust.” The will nominated William as executor.

Medora died on December 5, 2001.

A. Probate Case (Solano County Superior Court Case Number FPR 039547)

On November 6, 2002, William filed a Petition for Probate of Will and for Letters Testamentary. The will was admitted to probate. Letters testamentary issued on February 6, 2003.

On January 23, 2004, George—co-beneficiary of the estate—signed a written waiver of the “filing and settlement of a final account,” along with a quitclaim deed regarding real property on Terrace Beach Drive in Vallejo.

On March 24, 2004, William filed an Inventory and Appraisal with the court, representing that the only asset of the probate estate was the Terrace Beach Drive property. On May 19, 2004, William filed with the court the waiver of account and quitclaim deed that George had signed.

By July 2004, William filed a Petition for Final Distribution.

On March 1, 2005, the court issued a written order directing that, pursuant to the will, the executor (William) shall distribute the estate to William as trustee of the Medora D. Laws Trust, to be held, managed and disposed of in accordance with the provisions of the trust. William was ordered to prepare a judgment in conformance with the order, and the matter was continued for “petition for final distribution.”

On May 3, 2005, a judgment in the probate case was entered accordingly: pursuant to Medora’s will, “the Executor shall distribute the estate to William J. Laws as successor trustee of the Medora D. Laws trust to be held, managed and disposed of in accordance with the provisions of said trust.”

In March 2007, George died. Carolyn Laws (Carolyn) was appointed the qualified personal representative of his estate in July 2010 for the purpose of investigating the trust of Medora D. Laws. In October 2010, Carolyn filed a revocation of waiver in the probate case, revoking the waiver of accounting that George signed in January 2004.

On June 4, 2012, William filed a Final Account of Personal Representative of the Estate of Medora D. Laws in the probate case.

On February 25, 2014, Carolyn objected to William's petition for final distribution and request to close the probate estate. She argued they should be denied because of William's self-dealing, questionable inventory and appraisal, and failure to adequately report his activities as executor and render a final accounting, as well as her revocation of George's waiver of account and her allegation that the May 2005 judgment was obtained under false and misleading circumstances.

B. Trust Case (Solano County Superior Court Case Number FPR 045231)

Meanwhile, on March 6, 2012, Carolyn instituted a new action by filing a Petition to Compel Trustee to Account, seeking an order compelling William to account to the beneficiaries of the Medora D. Laws Trust for his actions as trustee since Medora's death. Carolyn also filed a notice that this new trust case was related to the probate case.

On April 12, 2012, the court issued an Order Compelling Trustee to Account, requiring William to file an account of the trust since December 5, 2001. William thereafter submitted multiple accountings, which Carolyn contends were not in compliance with California law.

On June 5, 2012, William filed a Final Account of Personal Representative of the Estate of Medora D. Laws in the trust case.² He subsequently filed a Summary of Account, also titled "Account of the Medora D. Laws Trust" on November 21, 2012. Carolyn objected to William's Summary of Account on March 27, 2013. William filed a

² It is not clear whether this document was identical to the document of the same name that was filed on June 4, 2012, in the probate case, since the document filed in the probate case is not in the appellate record.

response and additional account statements in May 2013, along with further documents in May 2014. The court was also apprised of George's waiver of account and the revocation filed by Carolyn.

C. Court's Orders in Both Cases

On July 10, 2014, a status conference was held jointly in the probate case and the trust case. The court adopted the identical tentative order in each case, essentially requiring William to account accurately for the assets in the probate estate and the trust estate, and particularly requiring him to include the Terrace Beach Drive property as a probate asset rather than a trust asset. The court's formal written orders, filed on July 10, 2014, were tailored to the respective proceedings.

1. Probate Case Order

In the probate case, the court ruled: "The court denies approval of William Laws' Final Account of Personal Representative of the Estate of Medora D. Laws filed on June 4, 2012. No later than July 31, 2014, William Laws is ordered to file and serve an amended accounting for the probate estate in compliance with all requirements set forth in Probate Code sections 1060 et seq., which addresses or corrects the following" The court then specified numerous inadequacies of the Final Account.

With respect to the Summary of Account, the court stated: "The accounting lists all the trust assets as part of the probate estate. Because trust assets are not part of the probate estate, all the trust assets must be removed and handled in a separate accounting filed in the trust case."

With respect to Schedule H, the court stated: "The accounting purports to show a distribution of the Terrace Beach Drive property in Vallejo to William Laws and George Laws. However, the court has not approved such a distribution; moreover, the property must be distributed to the trust in conformance with the will. The property must be reflected as an existing and current asset of the probate estate."

William filed an appeal, which we address in a separate opinion (case No. A142743).

2. Trust Case Order

In the trust case at issue in this appeal, the court ruled similarly: “The court denies approval of William Laws’ petition to approve his trust account filed on November 21, 2012. No later than July 31, 2014, William Laws is ordered to file and serve an amended accounting for the trust in compliance with all requirements set forth in Probate Code sections 1060 et seq., which addresses or corrects the following”

As to Schedule B, the court stated: “The accounting includes the receipt of the Terrace Beach Drive property in Vallejo. This property is part of the probate estate and has never been ordered distributed by the probate court, as the court has never approved William’s accounting or his petitions for final distribution. Thus, the property must be removed from the accounting as it has never been property ‘received’ by the trust.”

As to Schedule H, the court ruled: “The accounting purports to distribute the Terrace Beach Drive property in Vallejo to William Laws and George Laws. However, because this asset is not yet in the trust, it can’t be distributed from the trust. This asset needs to be removed.”

William did not file an amended accounting. Instead, he filed this appeal. (See Prob. Code, §§ 1300, 1304.)

II. DISCUSSION

William challenges the court’s order requiring him to file an amended accounting in the trust case. We begin with basic principles.

The trustee of a trust has a duty to keep the beneficiaries of the trust reasonably informed of the trust and its administration. (Prob. Code, § 16060.) To this end, the trustee shall provide an accounting to the beneficiaries at least annually and upon certain specified events. (Prob. Code, § 16062, subd. (a).) The accounting must comply with statutory requirements, including the requirements that it contain a statement of receipts and disbursements, a statement of assets and liabilities, and a disclosure of the trustee’s compensation. (Prob. Code, § 16063, subds. (a), (b).) Although an accounting may not be required if waived in the trust instrument or by a beneficiary, the court may compel

the trustee to account, notwithstanding the beneficiary's waiver, if it is reasonably likely that a material breach of the trust has occurred. (Prob. Code, § 16064, subd. (b).)

Here, William challenges the court's order requiring an amended accounting essentially because he objects to the court's determination that the Terrace Beach Drive property is part of the probate estate rather than the trust estate, and therefore had to be removed from the list of trust assets. William argues as follows: "The court erred in issuing the order stating that the Terrace Beach Drive property is part of the probate estate and has never been ordered distributed by the court, and that this asset is not yet in trust, and that it can't be distributed from the trust, and that it has to be removed. [¶] The judgment [in the probate proceeding] clearly states that the executor shall distribute the estate to William J. Laws as successor trustee to be held[,] managed and disposed of in accordance with the provisions of the said trust. The statutes and cases cited strongly support the trustee[']s actions. [¶] Therefore, the court is asked to reverse these orders and order that the Terrace Beach Drive property continues as trust property for accounting purposes and all other purposes."

William's argument is unpersuasive. Although the May 2005 judgment in the probate case asserts that the executor shall "distribute the estate to William J. Laws as successor trustee of the Medora D. Laws trust to be held, managed and disposed of in accordance with the provisions of said trust," the distribution has never been *effected*, because the court in the probate matter has never approved William's final account or issued an order of final distribution. As explained in our opinion in William's appeal from the order in the probate proceeding (case No. A143743), the court did not err in rejecting his final account. Without court approval of the final account and an order of final distribution, the trust has not yet received the real property, and the property is still an asset of the probate estate. Accordingly, the court in this case did not err in ruling that the Terrace Beach Drive property should not have been listed in the assets of the trust.

Having fully considered William's arguments in his opening brief and reply brief in this appeal, in light of the record, we conclude he has failed to demonstrate error.

III. DISPOSITION

The order is affirmed.

NEEDHAM, J.

We concur.

JONES, P.J.

BRUINIERS, J.